

ARTICLE V. GENERAL PROVISIONS

- 5-1. Use. No building, structure or land shall be used or occupied in a manner inconsistent with the requirements herein. No building, structure or part thereof shall be erected, constructed, reconstructed, moved, enlarged or structurally altered in a manner inconsistent with the requirements herein.
- 5-2. Principal Structure or Use. In all residential or agricultural zoning districts, no more than one (1) principal structure or use shall be located on a lot or tract, except as otherwise provided herein. In all non-residential zoning districts, no more than one (1) principal use shall be located on a lot or tract, except as otherwise provided herein.
- 5-3. Use on a Lot. Construction of buildings and structures and establishment of uses shall occur only upon a lot as defined herein.
- 5-4. Height and Density. No building or other structure shall hereafter be erected or altered so as to:
- A. Exceed the height limit; or
 - B. Accommodate or house a greater number of families per lot than allowed.
- 5-5. Reduction of Lot Area. No lot shall be reduced in size so that the lot width or depth, size of yard, lot area per family or any other requirement of this ordinance is not maintained. This restriction shall not apply when a portion of a lot is acquired for a public purpose.
- 5-6. Yard Service, Required Open Space to One Building. No part of any yard, or other open space, or off-street parking or loading space required about, or in connection with, any building, structure, or use shall be included as part of a required yard, open space, or off-street parking or loading space similarly required for any other building, structure, or use except as provided herein.
- 5-7. Open Space Not to be Encroached Upon. No open space shall be encroached upon or reduced in any manner except in conformity with the yard, setback, off-street parking spaces, and such other regulations required for the zoning district in which such building is located. Shrubbery, driveways, retaining walls, fences, curbs, and planted buffer strips shall not be construed to be encroachments. Open space areas shall be permanently maintained as open space and appropriately landscaped. These areas may not be used for vehicular access, parking or similar uses except as otherwise provided herein.
- 5-1
- 5-8. Encroachment on Public Rights-of-Way. No building, structure (including prohibited

mailbox supports as described in Section 5-37), service area or required off-street parking and loading facilities, except driveways, shall be permitted to encroach on public rights-of-ways. (Amended 02/25/99)

5-9. Single family dwelling. Single family dwellings are permitted uses in A-R and all residential zoning districts.

A. Additions To A Single Family Structure. All additions to a Single Family Dwelling must be attached to the primary structure, via either a heated and cooled corridor that has minimum interior dimensions of six (6) feet in width and eight (8) feet in height, or by a direct access common wall. Said corridor must be attached to the primary residence at a location that is currently heated and cooled. (Adopted 06/23/05)

B. Porte Cochere. A porte cochere shall be attached at an entrance of a single-family dwelling and shall meet the following standards: (Adopted 06/26/08)

1. Shall consist of a singular roof line that is consistent with the single-family dwelling roof design, and supported by posts/columns and shall remain open on the remaining three (3) sides; (Adopted 06/26/08)
2. Shall be consistent with the architectural character/facade of the single-family dwelling; and (Adopted 06/26/08)
3. A porte cochere shall not be utilized as a carport, garage, storage building, open storage, or living area. (Adopted 06/26/08)

5-10. Accessory structures and uses. (Adopted in its entirety 01/24/08)

A. The following accessory structures and uses are permitted in A-R and all residential zoning districts. Farm outbuildings and greenhouses are regulated as Conditional Uses under Article VII. and shall be allowed in the A-R Zoning District only.

1. Well, well/pump house;
2. Guest house;
3. Greenhouse (for private use);
4. Swimming pool, pool deck, pool equipment enclosure, and pool screen enclosure;
5. Garage;

6. Recreational court;
7. Gazebo;
8. Cabana, covered patio, and covered deck;
9. Storage building; and
10. Carport.

B. Structure Limitations. Construction of an accessory structure shall occur concurrently with or after the construction of the principal structure. Accessory structures shall not be used as dwelling units or for lodging purposes, except a guest house.

C. Number and Size. The number and size of accessory structures shall conform to the requirements described herein.

1. Accessory structures shall be limited to one (1) of the following options:
 - a. Two (2) accessory structures, per individual lot, with each accessory structure not to exceed 900 square feet of floor area. One (1) of these accessory structures may include up to 700 square feet of heated and finished floor area to be utilized as a guest house. An accessory structure combined with a guest house, under this option, shall be deemed as one (1) accessory structure; or
 - b. One (1) accessory structure, per individual lot, not to exceed 1,800 square feet of floor area, or the total square footage of the principal structure, whichever is less. This accessory structure may include up to 700 square feet of heated and finished floor area to be utilized as a guest house. An accessory structure combined with a guest house, under this option, shall be deemed as one (1) accessory structure; or
 - c. Two (2) accessory structures per individual lot consisting of a freestanding guest house (not to exceed 700 square feet of heated and finished living space) and an accessory structure which may not exceed 1,100 square feet of floor area.
2. At least fifty (50) percent of the square footage of an accessory structure shall be fully enclosed, except as otherwise provided in Section 5-10. Said enclosed area shall be surrounded by connecting adjacent walls constructed of solid materials attached to the foundation and roof.

3. A well/pump house consisting of seventy (70) square feet or less, swimming pool, recreational court, aircraft hangar (see Article VII.), farm outbuilding (see Article VII.), greenhouse (see Article VII.), and accessory structures incidental to commercial and industrial uses shall not be included in determining the number of accessory structures provided herein.
4. Total Square Footage. When both of the following criteria are met, the upper level space shall be included in the total square footage of the structure: a) the upper level space is accessed by permanent stairs and b) that portion of the upper level space where the ceiling width, measured at least seven (7) feet in height, is more than fifty percent (50%) of the ceiling width measured at least five (5) feet in height.

D. Location on Lot. Accessory structures shall conform to the dimensional requirements within each zoning district. No structure shall be located in the front yard except: a detached garage (see 1. and 2. below for requirements); well/pump house consisting of seventy (70) square feet or less; or farm outbuildings and greenhouses located in an A-R Zoning District, where the lot consists of five (5) acres or more. On a single frontage lot, the area between the street and the front building line shall be treated as a front yard with regard to the location of accessory structures. On a corner lot, the area between both of the streets and both of the front building lines shall be treated as a primary front yard and a secondary front yard with regard to the location of accessory structures. On a through lot, the area between the street from which the lot is accessed and the front building line shall be treated as a front yard with regard to the location of accessory structures.

1. Detached Garage located in the Front Yard of a Single Frontage Lot and a Through Lot. A detached garage located in the front yard shall meet the following requirements:
 - a. Shall not exceed 900 square feet of floor area;
 - b. Located no more than thirty-five (35) feet from the principal structure;
 - c. Not exceed twenty-three (23) feet in height;
 - d. No more than fifty percent (50%) of the footprint of the garage may be located beyond the front building line of the principal structure;
 - e. The width of the portion of the garage facing the street shall not exceed sixty percent (60%) of the width of the principal structure; and
 - f. No portion of the garage may be located directly between the principal structure and the street.

2. Detached Garage Located in the Front Yard of a Corner Lot.

- a. Primary front yard. The location of the front door of the principal structure shall establish the primary front yard. The primary front yard is the area between the street and the front building line in which an accessory structure is prohibited, except in the case of a detached garage which shall comply with the requirements of a Single Frontage Lot; and
- b. Secondary front yard. Consequently, the other frontage shall be the secondary front yard. The secondary front yard is the area between the street and the front building line in which an accessory structure is prohibited, except in the case of a detached garage which shall comply with the following requirements:
 - (1) Shall not exceed 900 square feet of floor area;
 - (2) Located no more than thirty-five (35) feet from the principal structure; and
 - (3) Not exceed twenty-three (23) feet in height.

3. Architectural Standards for a Detached Garage located in all front yards. The garage shall maintain a residential character. Elevation drawings denoting compliance with the following requirements must be submitted as part of the building permit application:

- a. The design of the garage shall match with the general architectural style inherent in the existing principal structure, including, but not limited to, roof pitch, roof facade, facade, residential windows, and residential doors.
- b. The garage shall have at least one (1) opening for vehicular access.
- c. A separate electrical meter is not permitted, unless otherwise required by the power company providing service to the property.
- d. The garage shall be connected to the principal structure by at least one (1) of the following:
 - (1) An attached or detached breezeway. Said breezeway shall be a minimum of six (6) feet in width and a minimum of eight (8) feet in height (interior measurement). A detached breezeway shall be constructed within six (6) inches of the principal structure and the garage; or

- (2) An attached raised deck. Said attached raised deck shall be a minimum height of fifteen (15) inches. The deck shall have a minimum width of six (6) feet. Said deck shall have guard rails measuring a minimum of three (3) feet in height; or
 - (3) An attached or detached pergola. Said pergola shall consist of parallel colonnades supporting an open roof of beams and crossing rafters, shall be a minimum of six (6) feet in width and a minimum of eight (8) feet in height (interior measurement). A detached pergola shall be constructed within six (6) inches of the principal structure and the garage.
- E. Guest Houses. Only one (1) guest house is allowed per individual lot. Any living area included in an accessory structure is a guest house. A guest house shall not be used as tenant space.
 - 1. Size. A guest house shall not exceed 700 square feet of heated and finished living space.
- F. Architectural Standards. All accessory structures of 200 square feet or greater, except a detached garage located in the front yard, shall be constructed in a residential character consisting of a gable, hip, or gambrel roof only, with a minimum pitch of 4 1/2" in 12", and a façade of fiber-cement siding, wood siding, wood textured vinyl siding, brick/brick veneer, rock, stone, cast-stone, stucco, synthetic stucco, or finished/baked enamel aluminum siding. Elevation drawing denoting compliance must be submitted as part of the building permit application.
- G. Temporary Accessory Storage. Portable on demand storage units are only allowed on a temporary basis and only in conjunction with an ongoing a renovation project for the purpose of storage of household items for a period not to exceed one year. Portable on demand storage units are defined as any container, storage unit or other portable structure, other than an accessory building or shed complying with all building codes used to store household items. Only two (2) portable on demand storage units are allowed per lot.
- H. Carport. The carport shall be used to house motor vehicles and trailers only. Carports shall be constructed of the same material or types of material as the principal structure on the property, or of metal.
- I. Cabana, covered patio, and covered deck. The cabana, covered patio, and covered deck shall not be utilized as a carport, garage, storage building, open storage, or living area. Said structures shall, at a minimum, consist of a roof with supporting posts/columns, not exceed one (1) story, and comply with the Architectural Standards for an accessory structure 200 square feet or greater.

- J. Swimming pool, pool deck, pool equipment enclosure, and pool screened enclosure. The pool deck, pool equipment enclosure, and pool screened enclosure shall comply with the required setbacks. A pool screen enclosure shall be constructed with insect screening commonly made of plastic, aluminum, or similar lightweight material.
- K. Nonconformance. All accessory structures or uses which had a building permit issued prior to January 24, 2008 (the adoption date) are legally non-conforming and shall be allowed to be maintained and rebuilt to current size and in the existing location. All accessory structures or uses permitted after January 24, 2008 (the adoption date) must comply with the current requirements.

Section 5-11. (Reserved) (Amended 01/24/08 – Guest Houses)

5-12. Pavilion. A pavilion is an accessory structure which is allowed in non-residential zoning districts except as otherwise provided herein.

5-13. Street Frontage for Access. (Amended 08/26/99)

- A. For access purposes, all residential or non-residential lots must have frontage on a street and/or a cul-de-sac that is either: (Amended 08/26/99)
1. Deeded to the County through a warranty deed; or
 2. County or State-maintained; or
 3. Deeded to a homeowner's association through a recorded warranty deed which the owner of any lot within the subdivision is required to join.
- B. All residential lots are required to have a continuous minimum lot width of 100 feet from the front property line to the building line and at least 100 feet of immediate street frontage on a street described in subsection A. above unless:
(Amended 06/25/98)
1. The lot is "Landlocked Property" as provided in Section 5-14; or
 2. The lot is one of four (4) or less lots located on the turn-around portion of a cul-de-sac. Each lot which fully abuts the turn-around portion of the cul-de-sac must have a minimum of fifty (50) feet of street frontage. There shall be a maximum of four (4) lots which fully abut the cul-de-sac. In addition, if fifty percent (50%) or more of the frontage of a lot abuts the turn-around portion of a cul-de-sac, then that lot shall be classified as a cul-de-sac lot.
(Amended 08/26/99)

C. For access purposes, all nonresidential lots are required to have at least a continuous minimum lot width of 125 feet from the front property line to the building line and at least 125 feet of frontage on a street described in subsection A. above unless:
(Amended 08/26/99)

1. The lot is "Landlocked Property" as provided in Section 5-14; or

2. The lot is one of four (4) or less lots located on the turn-around portion of a cul-de-sac. Each lot which fully abuts the turn-around portion of the cul-de-sac must have a minimum of fifty (50) feet of street frontage. There shall be a maximum of four (4) lots which fully abut the cul-de-sac. In addition, if fifty percent (50%) or more of the frontage of a lot abuts the turn-around portion of a cul-de-sac, then that lot shall be classified as a cul-de-sac lot.
(Amended 08/26/99)

5-14. Landlocked Property. In the event property is landlocked, as of the effective date of this Ordinance, the property owner shall be entitled to one (1) building permit, provided:
(Amended 02/22/07)

A. No other principal building exists or is being constructed on said property;

B. No other valid building permit has been issued prior to the effective date of this Ordinance and is currently valid;

C. The property owner has acquired a twenty (20) foot easement to a County maintained street, and said easement has been duly recorded and made a part of the property deed; and

D. In the event said property is divided into two (2) or more tracts, no further building permits shall be issued until such time as there exists a street meeting all of the requirements as specified in the Fayette County Subdivision Regulations.

5-15. Obstruction of Vision. No fence, wall, structure, shrubbery or other obstruction to vision between the height of three (3) feet and fifteen (15) feet, as measured from road grade except utility and light poles shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of streets, roads, highways, railroads or any combination thereof.

5-16. Uses Prohibited. If either a use or class of uses is not specifically indicated as being permitted in a zoning district, either as a matter of right or as a conditional use, then such use, class of uses, or structures for such uses shall be prohibited in such zoning district.

5-17. Height Limitations of Walls and Fences.

- A. In any residential zoning district, no wall or fence shall exceed four (4) feet in height within or along a boundary of a front yard. No wall or fence shall exceed eight (8) feet in height. All property zoned A-R where the use of the property is for farming, including the raising and selling of crops and livestock, is exempt from the four (4) foot maximum height requirement.
- B. No wall or fence shall be constructed in a public right-of-way. Any entrance must be at least fourteen (14) feet apart at the driveway to allow for passage of emergency vehicles.

5-18. Screening Required. Any outside service area, refuse area, storage area or outside equipment area shall be screened from view in accordance with Section 5-19.

5-19. Screening Standards. Walls and fences or combinations thereof shall achieve a 100 percent screen prior to the issuance of a Certificate of Occupancy. Walls and fences required for screening purposes shall be limited to wood, brick, stone, concrete or concrete block (with architectural treatment), or any such wall or fence combined with vegetative screening materials which shall be compatible with or enhance the appearance of adjoining properties. Chain link fences with wooden inserts may be utilized to establish a screen in the M-1 and M-2 Zoning Districts.

5-20. Side and Rear Yards Not Required Next to Railroad. Within any non-residential zoning district, side yards and rear yards shall not be required adjacent to railroad rights-of-way.

5-21. Nonconforming Lot of Record. Any unimproved nonconforming lot of record existing prior to the adoption of this Ordinance which has an area or a width which is less than that required by this Ordinance may be used as a building site for a principal structure permitted in that zoning district. All other structures and uses must conform to the applicable regulations contained herein.

5-22. Structures Permitted Above the Height Limit. The height limits shall not apply to a church spire, belfry, cupola, dome or ornamental tower not intended for human occupancy, monument, water tower, observation tower, chimney, smoke stack, conveyer, mast or aerial, parapet wall not extending more than four (4) feet above the roof line of the building, and necessary mechanical appurtenances. A freestanding flagpole is also permitted above the height limit, provided the total height is under 70 feet. Total height shall be measured from the finished grade at the location of the flagpole to the highest point. (Amended 09/26/02).

5-23. Permitted Encroachments of Yards and Setbacks. Architectural features such as cornices, eaves, steps, gutters and fire escapes may project not more than three (3) feet beyond any required setback line, except where such projections would obstruct driveways. In the case of automobile service stations, hotels, and similar uses which service the motoring public, canopies shall be allowed over a driveway or walkway within the front yard not to extend

from the principal building to a point any closer than fifteen (15) feet from the right-of-way. One (1) flagpole per lot shall also be allowed to encroach into the front yard setback, provided it is located not less than fifteen (15) feet from the right-of-way. Flagpoles which encroach the front yard setback shall be required to have a signed and sealed affidavit from an architect or engineer registered in the State of Georgia with the actual location and setback of the flagpole and inspection approval of the footing to be submitted to the Zoning Department prior to placement of the flagpole. (Amended 09/26/02)

- 5-24. Lots with Well and/or Private Sewage System. Any lot upon which both an individual well and septic tank or private sewage system are to be provided shall be governed by Title 31 of the Official Code of Georgia Annotated, entitled "Health", and shall be further governed by the Georgia Department of Human Resources Rules and Regulations for Individual Sewage Disposal Systems and by the rules and regulations of the Fayette County Health Department as amended and the Fayette County Water System, if applicable. Lots using both well and septic tank systems shall not be less than one and one-half (1.5) acres in size.
- 5-25. Regulations for Drip Irrigation Systems. All drip irrigation systems shall comply with those regulations entitled "Land Application by Drip Irrigation" which have been proposed by the water protection branch of the Environmental Protection Division, Department of Natural Resources for the State of Georgia, revised as of May 1, 1995, and as hereinafter amended, and containing the local amendment entitled "Sanitary Sewer System Specifications"; such rules and regulations being adopted hereby in their entirety by this reference.
- 5-26. Operation of Sanitary Landfills. Private landfills shall be certified and monitored by the Georgia Department of Natural Resources. Permits for the hauling of garbage shall be obtained from the Board of Commissioners of Fayette County.
- 5-27. Requirements for Moving a Building. No dwelling unit or other permanent structure shall be relocated in the County unless, when relocated, it meets all requirements herein and other applicable County code requirements.
- 5-28. Buildings Under Construction. Nothing in this Ordinance shall require any change in the construction or intended use of a building which is legally under construction or for which a building permit has been issued as of the effective date of this Ordinance and the construction of which shall be diligently pursued until completion.
- 5-29. Office Trailer. The temporary use of an office trailer shall require a permit to be issued by the Zoning Administrator prior to locating the trailer on a site. Said permit shall require a fee as established by the Board of Commissioners of Fayette County and shall specify the precise location of the trailer. Said permit shall be issued for a six (6) month period. Renewals of additional six (6) month periods are available so long as the applicant possesses a current building permit for property within the development. The trailer shall be identified by a sign denoting the name of the business for which it is being used.

- 5-30. Outside Storage. Outside storage of merchandise, equipment and parts shall be allowed in the side and rear yards subject to such requirements to the extent indicated below as long as such storage is screened in accordance with Section 5-19. Storage contained in a structure which is not enclosed by walls shall be deemed outside storage. Outside storage is allowed only within the M-1, M-2, C-C, and C-H Zoning Districts. Within the C-C and C-H Zoning Districts outside storage is limited to no more than twenty-five (25) percent of the floor area of all buildings.
- 5-31. Outside Storage Exempt from Screening. Outside storage of motor vehicles for lease or sale shall be exempt from the screening requirements of this Ordinance, subject to the minimum landscape and buffer requirements. Merchandise which is moved inside on a daily basis shall be exempt from the screening requirements; however such display must comply with all minimum landscape and buffer requirements.
- 5-32. Manufactured Home Sales. In any zoning district wherein the sale of manufactured homes is permitted, the owner of said business shall be required to restore the site to its original condition after the business has ceased to function. Prior to commencing business, the owner shall file with the Board of Commissioners of Fayette County a site restoration plan detailing the steps to be taken to restore the site. Further, prior to commencement of business, the owner of said business shall file with the Board of Commissioners of Fayette County a bond or letter of credit for the performance of said site restoration.
- 5-33. Parking of Business Vehicles. In any residential district, except A-R on parcels of ten (10) acres or larger, no business vehicle exceeding 8,000 pounds (empty vehicle weight) shall be allowed to park either on parcels so zoned or on streets abutting such parcels except during daylight hours and only for the purpose of making deliveries, making pickups and providing services. Business vehicles weighing less than 8,000 pounds shall not be parked on streets abutting such parcels. This provision shall not be construed as restricting in any way the normal business vehicle activity associated with development and construction.
- 5-34. Access to Major Thoroughfares. Lots having driveway access to arterial and collector streets shall be provided with a convenient vehicle turn-around which shall be of adequate design to permit vehicles to enter such arterial or collector streets in a forward manner.
- 5-35. Temporary Classrooms. The temporary use of industrialized buildings for classrooms shall require a permit issued by the Zoning Administrator. Said permit shall require a fee established by the Board of Commissioners. It must be demonstrated on a site plan that such a use will comply with all zoning requirements. Required on-site parking for temporary classrooms must be provided prior to the issuance of any temporary classroom permit. Each industrialized building must be approved for occupancy by the Fire Marshal. Site is defined, for the purpose of this Section, to be the entire area indicated on an approved overall site plan. (Amended 12/09/99)

Initial Placement of Temporary Classrooms. Upon the issuance of a building permit for the principal structure on site, a maximum of four (4) temporary classroom permits may be issued for a period not to exceed two (2) years, or thirty (30) days after the issuance of any type of Certificate of Occupancy on site should that occur prior to the two (2) year deadline. (Adopted 12/09/99)

Subsequent Placement of Temporary Classrooms. Upon issuance of a building permit for an expansion on-site, additional temporary classroom permits may be issued, the number of which shall be based on the following: one (1) temporary classroom per 2,000 square feet of proposed addition devoted to classroom use, with a maximum of four (4) temporary classrooms. Subsequent temporary classroom permits may be issued for the expansion period and shall expire in one (1) year, and may be renewed for a six (6) month period due to documented construction delays, with no further extensions. (Adopted 12/09/99)

- 5-36. Raising and Keeping of Horses in Residential Districts. The raising and keeping of no more than one (1) horse on a lot consisting of a minimum of three (3) acres and one (1) additional horse for each additional acre shall be allowed on any parcel for which single-family residential is a permitted use.
- 5-37. Mailbox Supports. The use of massive supports that, when struck, could damage vehicles and cause serious injury to vehicle occupants are prohibited. Concrete posts, brick bases, iron pipes and similar miscellaneous items such as farm equipment or supports filled with concrete cannot be used for mailbox supports. (Amended 02/25/99)
- 5-38. Site Plan Requirement. All proposed non-residential development shall be depicted on a Site Plan consistent with the requirements listed in the Development Regulations.
- 5-39. Administrative Variances and Modifications. The Zoning Administrator shall have the authority to approve minor changes to plan elements, dimensional requirements and conditions of zoning when the conditions in A. below exist:
- A. Evaluation. The evaluation of a request for a minor change to plan elements, dimensional requirements, landscape requirements, and conditions of zoning shall determine that:
1. The basic design and concept expressed on approved plans or in County regulations have been preserved; and
 2. The minor change is made necessary by:
 - a. Discovery of topographic, geographic or geologic conditions that were unknown at the time of plan or plat approval; or

- b. Unforeseen developments, on or off the site, which impact the reasonableness of the plan element, dimensional requirement or condition of zoning.
 - B. Limitations. The Zoning Administrator shall have the authority to approve administrative variances and modifications of conditions not to exceed twenty (20) percent of the stated requirements except that:
 1. Required buffers between parcels identified for industrial, commercial and office-institutional uses on the Land Use Plan may be reduced to twelve (12) foot deep landscape areas; and
 2. Front and side yards adjoining major thoroughfares shall not be administratively reduced by more than five (5) percent.
- 5-40. Standards for Telecommunications Antennas and Towers. (Amended in its entirety and adopted 12/10/98)
- A. Purpose and Intent. The purpose of this ordinance is to establish minimum development standards for the regulation of commercial telecommunications transmissions towers, including but not limited to, cellular and Personal Communications Systems (PCS) towers, broadcasting towers, two-way radio towers, fixed-point microwave dishes, commercial satellites and receiving dishes, and related accessory equipment and buildings. The intent of this ordinance is to: (1) to implement the provisions of the Telecommunications Act of 1996 on a local level; (2) to control placement of towers and antennas in a way that minimizes the adverse visual impact to nearby properties by locating towers and antennas in non-residential areas or in areas where the adverse impact on the community is minimal, and (3) to advocate the shared use of new and existing tower sites through co-location thereby discouraging the proliferation of towers throughout Fayette County.
 - B. Applicability.
 1. District Height Limitations. The requirements set forth herein shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and antennas.
 2. Public Property. Notwithstanding anything contained herein to the contrary, this section shall not prevent the Board of Commissioners of Fayette County from authorizing the location or use of a tower for public purposes. In the event the Board of Commissioners of Fayette County authorizes the use of a tower for public purposes, the applicable criteria of this section shall not apply. (Amended 04/11/02)

3. Amateur Radio Antennas. This ordinance shall not govern any amateur radio tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator.
4. Pre-Existing Towers and Antennas.
 - a. Any tower or antenna which existed prior to December 10, 1998 shall be deemed a pre-existing tower and shall not be required to meet the requirements of this ordinance, other than the applicable requirements of Sections 5-40.C., F. and G. herein. Additions to or the enlargement of towers and/or tower facilities that were constructed and antennas that were installed prior to December 10, 1998 shall not be deemed to constitute the expansion or enlargement of a nonconforming use or structure. (Amended 10/25/01)
 - b. Co-location of antenna on a pre-existing tower which does not comply with the setback requirements of this ordinance may locate proposed accessory equipment buildings within the existing fenced area provided the minimum setbacks of the existing tower facilities are met. All other requirements of Section 5-40 stated herein shall apply. (Amended 10/25/01)
 - c. Per Section 5-40.H. herein, an annual Tower In Use Certification shall be required and any pre-existing towers or antennas that are not in use for a continuous period of twelve (12) months shall be removed.
5. Replacement of an existing tower structure is permitted provided that all of the following apply: (Add in its entirety 05/25/00)
 - a. The replacement tower is constructed on site within close proximity to the existing tower at the same or greater setbacks than previously established;
 - b. The replacement tower complies with the height requirements for the area in which it is located;
 - c. The tower being replaced is removed from site within fifteen (15) calendar days from the issuance of the Certificate of Occupancy for the new tower;
 - d. Additional co-location opportunities on the new tower are made available with the minimum users required based on tower height;
 - e. Proposed accessory equipment buildings comply with established setbacks for existing tower facilities without increasing nonconformity; and,

- f. A site plan for the new tower facilities is administratively approved.

C. Permitted Uses.

- 1. General. Permitted uses shall not require administrative site plan approval or public hearings, but shall comply with the applicable requirements of Sections 5-40.F. and G. herein and all other applicable ordinances. Prior to the installation of any antenna or placement of additional equipment cabinets or buildings at a tower site, the applicant shall provide written notice to the Zoning Administrator, which notice shall include the location, size, and configuration of such antenna and equipment. Written notice shall be certified by a licensed professional engineer and shall verify that the additional antenna will comply with wind load requirements as designed and installed. A Zoning Compliance form shall be issued by the Zoning Administrator upon satisfaction of the above requirements, and permits and inspections shall be required. (Amended 10/25/01)

Specific Permitted Uses.

- a. Installing an antenna on an existing structure, so long as said installation adds no more than twenty (20) feet to the height of said existing structure (including buildings, light poles, water towers, or other free standing non-residential structures excluding signs).
- b. Installing an antenna on any existing tower, so long as said installation does not exceed the maximum height of administrative tower approval for that location. (Amended 10/25/01)
- c. Adding on to an existing mechanical or accessory building, or placement of additional equipment cabinets or buildings at a tower site as part of co-location, subject to approval by the Zoning Administrator, County Engineer, and Fire Marshal. (Amended 10/25/01)

D. Use by Right Administrative Approvals.

General. The following provisions shall require an administrative approval and shall comply with Sections 5-40.F. and G. herein and all other applicable ordinances. Applicants shall apply to the Zoning Department in conjunction with the site plan review process.

- 1. Highway Corridor. Locating towers along the following highway corridors, rather than in residential areas, is specifically encouraged and is permitted as a floating zone (within any zoning district) provided all the following requirements are met:

- a. The State and County Highways included within the Highway Corridor are

S.R. 54 (East and West), S.R. 85 (North and South), S.R. 92 (North and South), S.R. 74, S.R. 314, S. R. 279, S.R. 138, 85 Connector, and Bernhard Road (future east-west arterial).

- b. The Highway Corridor tower floating zone permits towers as a Use by Right in any zoning district when located within 1,000 feet of the right of way on either side of the above roads in unincorporated areas of Fayette County, provided the tower complies with all required regulations of Section 5-40. (Amended 05/25/00)
 - c. Towers within the Highway Corridor are restricted to a maximum of 250 feet in height as an administrative approval, shall be either a monopole or lattice tower, and shall be engineered to accommodate a minimum of five (5) users. (Amended 03/25/99)
 - d. Towers in excess of 250 feet in height in the Highway Corridor shall require public hearings, can be either a monopole or lattice tower at the discretion of the Boards, and shall be engineered to accommodate six (6) or more users depending on the height of the tower. (Amended 03/25/99)
 - e. The minimum distance between any existing or planned towers in the Highway Corridor shall be one (1) linear mile. The minimum distance requirement shall apply to existing and planned towers within any local government jurisdiction.
 - f. No equipment buildings, support structures, or tower equipment can be visible from the highway. Landscaping shall be staggered double rows of evergreen trees a minimum of six (6) feet in height when planted and spaced every ten (10) feet on center, and supplemented with shrubs a minimum of three (3) feet in height when planted and spaced every eight (8) feet on center, for a completely screened, opaque look around the entire fenced tower facility.
2. County-Owned Property. Towers may locate on County-owned property (except public schools) at a maximum height of 250 feet as a Use by Right Administrative Approval. The County Attorney shall negotiate compensation for the leased parcel for the tower. Prior to site plan approval, the tower owner and subsequent users of the tower shall be required to execute a written agreement, in a form acceptable to the County Attorney, which releases the County from all liability regarding the tower. (Amended 03/25/99)

3. Other Specific Administrative Approvals.

- a. Locating any tower or alternative tower structure that is 180 feet or less in height in areas other than the Highway Corridor, provided a licensed professional engineer certifies that said tower can structurally accommodate the required number of shared users, and that the Zoning Administrator concludes the tower satisfies the requirements of Sections 5-40.F. and G., and that the tower meets the following height and usage criteria:
(Amended 03/25/99)
 - (1) Single user: up to seventy (70) feet;
 - (2) Two users: up to 120 feet;
(Amended 03/25/99)
 - (3) Three users: up to 150 feet; and, (Amended 03/25/99)
 - (4) Four or more users: up to 180 feet. (Added 03/25/99)
- b. All new towers located in the A-R zoning district shall be required to be constructed as monopoles and shall be a minimum of 1,000 feet from the nearest residence, excepting only the residence located upon the same lot as the tower.

E. Public Hearing Required.

1. General. If the proposed tower or antenna is not included under the specific permitted uses, Section 5-40.C. or included as a specific administratively approved use, Section 5-40.D., then a public hearing shall be required for the approval of the construction of a tower or the placement of an antenna in all zoning districts. All such uses shall comply with Sections 5-40.F. and G. herein and all other applicable ordinances. Applicants shall apply for a public hearing through the Zoning Department.
 - a. In granting an approval, the governing authority may impose conditions to the extent the governing authority concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

2. Factors Considered in Public Hearing Applications. The Board of Commissioners or its designee (governing authority) shall consider the following factors in determining

whether to approve an application, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria, if in the sole discretion of the governing authority, the goals of this ordinance are better served thereby: (Amended 12/15/05)

- a. Height of the proposed tower;
 - b. Proximity of the tower to residential structures and residential zoning district boundaries;
 - c. Nature of uses on adjacent and nearby properties;
 - d. Surrounding topography;
 - e. Surrounding tree coverage and foliage;
 - f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 - g. Proposed ingress and egress;
 - h. Two (2) mile separation (non-highway corridor); and (Adopted 12/15/05)
 - i. One (1) mile separation (highway corridor). (Adopted 12/15/05)
3. In granting its approval, the County, through the Board of County Commissioners or its designee, may impose special conditions that it feels are necessary to minimize the adverse effect of a proposed tower or antenna on adjoining property.

F. Development Requirements.

1. Tower facilities may be located only in the following zoning districts, with the exception of towers located within an established Highway Corridor floating zone: Manufacturing and Heavy Industrial District (M-2); Light Industrial District (M-1); Highway Commercial District (C-H); Community Commercial District (C-C); and Agricultural Residential (A-R).

2. Lot Area. Tower facilities shall be on a lot which meets the minimum lot size for the district in which it is located. Tower facilities may be located on a lot containing another principal or accessory use. A tower may occupy a leased parcel being a

portion of the lot (parent parcel). For purposes of determining if a tower or antenna complies with the minimum tower setbacks, the boundaries of the entire lot (parent parcel) shall control.

3. All new towers over seventy (70) feet in height shall not be located within two (2) linear miles from any existing or planned tower that is over seventy (70) feet in height, with the exception of proposed towers within the Highway Corridor. The minimum distance requirement shall not apply from existing government-owned towers where co-location is not permitted.
4. Towers shall not be located on the same lot as a school or day-care center.
5. Setbacks: Setbacks for tower facilities shall be measured from the boundaries of the lot, not the boundaries of the leased parcel to the nearest tower facilities including all equipment, slabs, or other structures associated with the operation of the tower.
 - a. All towers and tower facilities located outside the Highway Corridor shall be set back from all adjoining properties zoned residential or A-R a distance equal to the height of the tower or 200 feet, whichever is greater.
 - b. All towers and tower facilities located outside the Highway Corridor shall be set back from all adjoining properties zoned non-residential a distance equal to the height of the tower or 100 feet, whichever is greater.
 - c. All towers and tower facilities located within the Highway Corridor shall be set back as follows:
 - (1) A minimum of 100 feet from the ultimate planned right of way line;
 - (2) A minimum of 50 feet from all adjoining properties zoned non-residential;
 - (3) A minimum of 200 feet from all adjoining properties zoned residential or A-R or the height of the tower, whichever is greater; and
 - (4) A minimum of 1,000 feet from the nearest residence except for a residence located on the same lot as the tower.
6. All anchors for guyed towers shall comply with the minimum setbacks of the zoning district.

7. Security Fencing. All tower facilities shall be enclosed by a steel chain link fence not less than eight (8) feet in height, with vinyl slat inserts for screening. Access to the communication tower shall be through a locked gate. In addition, a minimum of three (3) strands of barbed wire shall be used along the top of the fence to prevent

unauthorized access to the tower.

8. Landscaping. Unless otherwise specified herein, the Development Regulations of Fayette County shall apply.
 - a. The tower and related facilities shall be landscaped with a standard buffer that shall consist of a landscaped strip ten (10) feet in width surrounding the perimeter of the tower and any accessory structures. The buffer shall consist entirely of evergreens, and once installed shall be a minimum of six (6) feet in height at time of planting.
 - b. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large wooded lots, the Zoning Administrator may determine that natural growth around the property perimeter may be a sufficient buffer, in lieu of the required landscaping. If existing vegetation to remain is requested to count toward the landscaping requirements, all such information, including location, size, and type of vegetation shall be indicated on the site/landscape plan.
 - c. Landscaping shall be installed on the outside of required fence.
9. Maximum height for all towers and antennas is 500 feet. Tower height shall be measured from the natural grade of the ground at the location of the tower to the highest point of the tower, including any antenna. If minimal grading (elevation of one to two feet above natural grade) is required to level the ground for the tower base, tower height shall be measured from the finished grade approved by the County Engineer. (Amended 02/24/00)

G. Supplemental Requirements.

1. Application Requirements: All applicants for new tower construction shall include the following information at time of application submittal: site and landscape plans drawn to scale; a report including all tower specifications and a description of the tower with technical reasons for its design; documentation establishing the structural integrity for the tower=s proposed uses; the general capacity of the tower and information necessary to assure that ANSI standards are met; a statement of intent on whether excess space will be leased; proof of ownership of the proposed site or authorization to utilize it; and copies of any easements necessary.

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2. Inventory of Existing or Planned Tower Sites. No new tower shall be permitted unless the applicant demonstrates to the satisfaction of the County that no existing tower nor any towers in the approval process can accommodate the applicant=s proposed antenna. All evidence shall be signed and sealed by appropriate licensed professionals or qualified industry experts. All of the following shall be required to

sufficiently demonstrate that no existing or planned tower can accommodate the proposed antenna:

- a. Each applicant for a tower or antenna shall contact the owners of all existing and planned tower sites, including those located within the zoning jurisdictions of municipalities and/or other counties, that are within the service operating area of the applicant=s proposed tower or antenna location, and provide the Zoning Department with an inventory of said tower sites at the time of application submittal. The inventory must include the following information:
 - (1) All property owners and the lessees for each tower site;
 - (2) The site location, total height, and design type of each tower;
 - (3) Details of all existing and any planned towers or structures located within the geographic service area and the ability of such to meet the applicant=s engineering requirements, including but not limited to: sufficient height, structural support strength, and electromagnetic interference with antenna(s) on the existing towers or structures;
 - (4) Comparison of all fees or costs required to co-locate on an existing tower or structure versus construction of a new tower if proposed. Applicants shall submit in writing a detailed estimate of total co-location development costs for each site and the estimated cost for development of a new tower;
 - (5) Other limiting factors that render existing towers and structures unsuitable; and
 - (6) Letters of rejection for requests to co-locate on all existing and planned towers within the service area of the proposed tower.
- b. The Zoning Department may share such information with other applicants applying for approval under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the governing authority, provided, however, that the Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

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- c. If it is determined that the applicant cannot feasibly locate an antenna on an existing tower, the applicant must then demonstrate that the proposed new tower is designed so that it can accommodate additional antennas as height requirements permit. No single-purpose towers over 70 feet will be permitted unless conclusive proof can be submitted that there is no other feasible alternative.

3. Site Plan Approval. All tower applicants for new towers or co-location on existing towers shall be required to submit a scaled site plan which complies with all applicable requirements of the Development Regulations. Additional information indicated on the site plan must include, total tower height including antennas, type and design of all tower facilities, including equipment buildings or cabinets, maximum effective radiated power, ingress/egress, landscaping and buffer requirements, setbacks, fencing, zoning of adjacent property and other information necessary to assess compliance with this ordinance. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer. Site plan submittal shall include completion of a tower application, signed and notarized by both the property owner and the tower company representative/agent.
4. Aesthetics and Lighting. The following compatibility standards shall govern the aesthetics and lighting of all tower facilities, including the installation of antennas on towers.
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the F.A.A., be painted a neutral color, so as to reduce visual obtrusiveness.
 - b. At a tower site, the design of the buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment as much as possible.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be architecturally compatible with, the color and texture of the supporting structure, and if roof mounted shall be screened by a parapet wall, so as to make the antenna and related equipment visually unobtrusive.
 - d. Towers shall not be artificially lighted, unless required by the F.A.A. or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

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5. Federal Requirements. All towers must meet current standards and regulations of the Federal Aviation Administration (F.A.A.), the Federal Communications Commission (F.C.C.), and any other agency of the federal government with the authority to regulate towers and antenna, including modulation studies on frequency usage, to avoid interference with existing systems in operation. Prior to submittal for an administrative site plan approval, applicants shall be required to submit written approval from the F.A.A. which states that the proposed communications towers

does not encroach onto or through any established public or private airport approach path or federal airspace as established by the F.A.A.

6. Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended. If, upon inspection, the governing authority concludes that a tower fails to comply with such codes and standards or that such tower constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have sixty (60) days to bring such tower into compliance.
7. County=s Right to Co-locate. Fayette County shall have the right to co-locate emergency/public safety equipment at no cost on any approved tower within the County=s jurisdiction, provided that the co-location of antennas do not interfere with the normal tower operations. Reserved space on each new tower shall be required for future County co-location.

H. Performance Bond Required.

Prior to the issuance of a Zoning Compliance certificate to erect a new tower structure, every applicant shall be required to deposit a performance bond with Fayette County. The amount of the Bond, not less than \$5,000 nor more than 10% of construction costs, shall be set by the Zoning Administrator. Such bond shall be required upon compliance with all aspects of this Section and shall be applicable to any assignee and owner of any permit granted hereunder, or any employee, contractor, subcontractor, or other party performing services in connection with any Certificate of Zoning Compliance issued by the Zoning Department. The required performance bond shall be released only upon demolition of the tower and restoration of the site to the pre-development conditions. The format of the bond shall be approved by the County Attorney.

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- I. Tower In Use Certification. An annual Tower In Use Certification shall be required for any tower or antenna previously permitted or currently in use as of June 27, 1996. Said certification shall include the total height of the tower and a list of all current users and their height on the tower. Said certification shall be submitted to the Zoning Department, signed and notarized by the tower company representative/agent, by the 31st of January each year. Failure to submit said certification may result in the issuance of a violation.
- J. Removal of Abandoned Antennas and Towers. Prior to the abandonment of any tower or

antenna, a copy of the notice of Intent to Abandon required by the F.C.C. shall also be submitted to the Fayette County Zoning Department. Any antenna or tower, including pre-existing towers and antennas, that is not in use for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.